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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

EPIC GAMES, INC.

Case No. 4:20-cv-05640-YGR-TSH

Plaintiff, Counter-defendant

APPLE INC.'S STATEMENT IN SUPPORT OF ADMINISTRATIVE MOTION TO SEAL

APPLE INC.,

The Honorable Thomas S. Hixson

Defendant, Counterclaimant

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1 Pursuant to Federal Rule of Civil Procedure 26(c) and Local Rule 79-5, Apple Inc. (“Apple”)
 2 submits this statement in support of Epic Games, Inc.’s Administrative Motion to Consider Whether
 3 Another Party’s Material Should Be Sealed Pursuant to Civil Local Rule 79-5 (Dkt. 1433) (“Epic’s
 4 Motion”). Apple respectfully requests that the Court partially seal Exhibits A and B to Epic’s Motion,
 5 because they contain information sealable under controlling law and Local Rule 79-5.

6 Exhibits A and B contain personally identifiable information in the form of email addresses and
 7 phone numbers of Apple and third-party employees. Exhibit A also contains competitively sensitive,
 8 non-public information regarding Apple’s internal project codenames, which Apple intends to keep
 9 confidential. Exhibit B also contains the sensitive business information of a third-party developer which,
 10 if revealed, could impact its competitive standing. Exhibit A contains excerpts from Apple’s privilege
 11 log prepared for the Special Masters conducting evaluation of the privilege claims stemming from
 12 Apple’s re-review. The privilege log entries are required to be filed under the terms of the Joint
 13 Stipulation and Order Approving Privilege Re-Review Protocol (Dkt. 1092) (the “Protocol”), but contain
 14 personally identifiable information in the form of email addresses of Apple employees and competitively
 15 sensitive, non-public information regarding Apple’s internal project codenames, which Apple intends to
 16 keep confidential.

17 Apple’s proposed redactions of Exhibits A and B are indicated in the highlighted versions Apple
 18 has lodged with the Court, with copies provided to opposing counsel. Apple’s redactions to the trial
 19 exhibit, Exhibit B, are consistent with the redactions used by and agreed upon between the parties during
 20 the evidentiary hearing and in any post-hearing exhibit filings. Apple will file redacted versions of
 21 Exhibits A and B publicly upon the Court’s ruling as to the proposed confidentiality designations.

22 **LEGAL STANDARD**

23 “The court may, for good cause, issue an order to protect a party or person from annoyance,
 24 embarrassment, oppression, or undue burden or expense,” including preventing the disclosure of
 25 information. *See Fed. R. Civ. P. 26(c)*. The Court has “broad latitude” “to prevent disclosure of materials
 26 for many types of information, including, *but not limited to*, trade secrets or other confidential research,
 27 development, or confidential information.” *Phillips v. Gen. Motors Corp.*, 307 F.3d 1206, 1211 (9th
 28 Cir. 2002) (emphasis in original); *see also Kamakana v. City and Cnty. of Honolulu*, 447 F.3d 1172,

1 1178 (9th Cir. 2006) (compelling circumstances exist to seal potential release of trade secrets) (citing
 2 *Nixon v. Warner Commc'ns, Inc.*, 435 U.S. 589, 598 (1978)); *PQ Labs, Inc. v. Qi*, 2014 WL 4617216,
 3 at *1 (N.D. Cal. Sept. 15, 2014) (granting multiple motions to seal where publication would lead to the
 4 disclosure of trade secrets); *Apple Inc. v. Rivos, Inc.*, 2024 WL 1204115, at *1 (N.D. Cal. Mar. 21, 2024)
 5 (granting request to seal “internal product codenames” and noting that a prior request for the same had
 6 also been granted). Courts often find good cause exists to seal personally identifiable information. *See*,
 7 *e.g.*, *Snapkeys, Ltd. v. Google LLC*, 2021 WL1951250, at *3 (N.D. Cal. May 14, 2021) (granting motion
 8 to file under seal personally identifiable information, including email addresses and telephone numbers
 9 of current and former employees).

10 Although a party must show compelling circumstances to seal information appended to
 11 dispositive motions, the standard for non-dispositive motions is simply “good cause.” *In re Anthem, Inc.*
 12 *Data Breach Litig.*, 2018 WL 3067783, at *2 (N.D. Cal. Mar. 16, 2018); *Rembrandt Diagnostics, LP v.*
 13 *Innovacon, Inc.*, 2018 WL 1001097, at *1 (S.D. Cal. Feb. 21, 2018); *see DNA Genotek Inc. v. Spectrum*
 14 *Sols., L.L.C.*, 2023 WL 4335734, at *2 (S.D. Cal. May 10, 2023). In general, requests to seal information
 15 should be narrowly tailored “to remove from public view only the material that is protected.” *Ervine v.*
 16 *Warden*, 214 F. Supp. 3d 917, 919 (E.D. Cal. 2016); *Vineyard House, LLC v. Constellation Brands U.S.*
 17 *Ops., Inc.*, 619 F. Supp. 3d 970, 972 n.2 (N.D. Cal. 2021) (Gonzalez Rogers, J.) (granting a motion to
 18 seal “because the request is narrowly tailored and only includes confidential information”).

19 DISCUSSION

20 Apple seeks to seal the personally identifiable information, competitively sensitive non-public
 21 project codenames, and competitively sensitive third-party non-public financial information in the
 22 exhibits to Epic’s Motion. *See* Perry Decl. ¶ 5.

23 Epic’s administrative motion to seal is subject to the “good cause” standard because it concerns
 24 non-dispositive objections related to discovery. *See, e.g.*, *Kamakana*, 447 F.3d at 1179 (“[T]he public
 25 has less of a need for access to court records attached only to non-dispositive motions because those
 26 documents are often unrelated, or only tangentially related, to the underlying cause of action.”); *Lee v.*
 27 *Great Am. Life Ins. Co.*, 2023 WL 8126850, at *2 (C.D. Cal. Nov. 13, 2023) (“Matters concerning
 28 discovery generally are considered nondispositive of the litigation” (quotation omitted)); *see also In re*

1 *Anthem, Inc. Data Breach Litig.*, 2018 WL 3067783, at *2; *Rembrandt Diagnostics, LP*, 2018
 2 WL1001097, at *1; *Al Otro Lado, Inc. v. Wolf*, 2020 WL 5422784, at *4 (S.D. Cal. Sept. 10, 2020).

3 Apple’s sealing request meets the good cause standard here. *Lamartina v. VMware, Inc.*, 2024
 4 WL 3049450, at *2 (N.D. Cal. June 17, 2024) (good cause to seal internal email communications). Apple
 5 operates in an intensely competitive environment, and thus has taken extensive measures to protect the
 6 confidentiality of its information. *See* Perry Decl. ¶ 3. Courts in this district have found not only good
 7 cause, but compelling reasons exist to seal personally identifiable information, like that found in Exhibits
 8 A and B. *See Snapkeys*, 2021 WL 1951250, at *3 (granting motion to file under seal personally
 9 identifiable information, including email addresses and telephone numbers of current and former
 10 employees); *see also UnifySCC v. Cody*, 2023 WL 7170265, at *1 (N.D. Cal. Oct. 30, 2023) (finding
 11 compelling reasons to seal personally identifying information of employees, including names, addresses,
 12 phone numbers, and email addresses).

13 Sealing project codenames in Exhibit A is necessary here because public disclosure of this
 14 information would risk competitors gaining an unfair business advantage by benefiting from Apple’s
 15 efforts into program development and proprietary research that Apple intends to keep confidential. *See*,
 16 *e.g.*, *Rodriguez v. Google LLC*, 2024 WL 42537, at *2 (N.D. Cal. Jan. 3, 2024) (granting sealing of
 17 “internal terms” in documents that Google asserted contained “business information that might harm
 18 their competitive standing or become a vehicle for improper use” if public) (internal quotations omitted);
 19 *Rodriguez v. Google LLC*, 2025 WL 50425, at * 11 (N.D. Cal. Jan. 7, 2025) (finding “compelling
 20 reasons” to seal internal code names); *Apple Inc. v. Samsung Electronics Co., Ltd.*, 2013 WL 412864, at
 21 *2 (N.D. Cal. Feb. 1, 2013) (granting sealing motion for redactions consisting of “Apple’s confidential
 22 CAD designs and internal project code names,” finding that the request was “narrowly tailored to
 23 Apple’s proprietary information.”).

24 Disclosure of the highlighted information in Exhibit B relating to non-public sensitive third-party
 25 financial information could harm third-party developer business interests. *Id.* ¶ 5; *see also DNA Genotek*
 26 *Inc.*, 2023 WL 4335734, at *2 (finding good cause where disclosure would “undercut” a party’s “position
 27 ... in the marketplace”). Non-public financial information is routinely sealed because it can expose
 28 sensitive information to a litigant’s competitors that would provide those competitors an unfair

1 advantage in the future. *See, e.g., Apple Inc. v. Samsung Electronics Co., Ltd.*, 727 F.3d 1214, 1225
 2 (Fed. Cir. 2013) (applying Ninth Circuit law and concluding that the district court abused its discretion
 3 in denying a motion to seal as to “profit, cost, and margin data”); *Vigdor v. Super Lucky Casino, Inc.*,
 4 2018 WL 4510734, at *2 (N.D. Cal. Sept. 18, 2018) (sealing “business and financial information relating
 5 to the operations of Defendants”); *Linex Techs., Inc. v. Hewlett-Packard Co.*, 2014 WL 6901744 (N.D.
 6 Cal. Dec. 8, 2014) (concluding that sensitive financial information falls within the class of documents
 7 that may be filed under seal).

8 Apple has narrowly tailored its sealing request to include only the information necessary to
 9 protect Apple and third-party personally identifiable information and confidential business information.
 10 *See Krommenhock v. Post Foods, LLC*, 2020 WL 2322993, at *3 (N.D. Cal. May 11, 2020) (granting
 11 motion to seal “limited” information); *see also Phillips*, 307 F.3d at 1211; *Williams v. Apple Inc.*, 2021
 12 WL 2476916, at *2–3 (N.D. Cal. June 17, 2021) (noting Apple’s narrowed sealing requests with “tailored
 13 redactions”); Dkt. No. 643 at 3 (finding Apple’s proposed redactions appropriate for an exhibit when
 14 redactions were “narrowly tailored” to “sensitive and confidential information”). Apple has only
 15 partially redacted limited information in the exhibits. *See* Perry Decl. ¶ 5.

16 For the foregoing reasons, there is good cause that warrants partially sealing Exhibits A and B to
 17 Epic’s Motion.

18 CONCLUSION

19 Apple respectfully requests that the Court seal the information identified in the accompanying
 20 declaration.

21
 22
 23 Dated: April 14, 2025

Respectfully submitted,

24 By: /s/ Mark A. Perry
 25 Mark A. Perry
 26 WEIL, GOTSHAL & MANGES LLP

27
 28 Attorney for Apple Inc.